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First Named Inventor	SCOTT, Steve T., et al.
Art Unit	2165
Examiner Name	PARDO, Thuy N.
Attorney Docket Number	P00509-US-01 (04690.0007)

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

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Application of: SCOTT, Steve T., et al.

Serial No.: 09/802,398

Filed: March 9, 2001

Invention: METHOD AND SYSTEM FOR SUPPLY CHAIN PRODUCT AND PROCESS
DEVELOPMENT COLLABORATION

Art Unit: 2165

Examiner: PARDO, Thuy N.

Confirmation No.: 7547

Our Docket: P00509-US-01 (04690.0007)

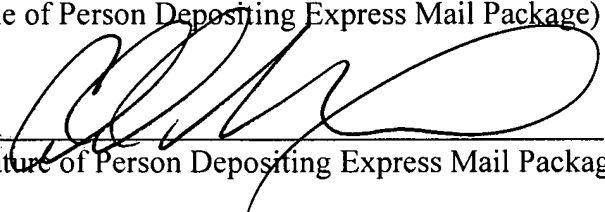
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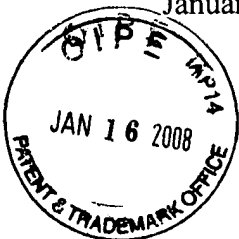
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RE: Application of: SCOTT, Steve T., et al.
Serial No.: 09/802,398
Filed: March 9, 2001
Invention: METHOD AND SYSTEM FOR SUPPLY CHAIN
PRODUCT AND PROCESS DEVELOPMENT
COLLABORATION

Art Unit: 2165
Examiner: PARDO, Thuy N.
Confirmation No.: 7547
Our Docket: P00509-US-01 (04690.0007)

**REPLY BRIEF IN SUPPORT OF APPEAL FROM FINAL REJECTION
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

The Appellant has appealed to the Board of Patent Appeals and Interferences (the "Board") from the decision of Examiner Thuy N. Pardo (the "Examiner") dated December 12, 2006, finally rejecting claims 1-9, 11, 13-18, and 24-29 of U.S. Patent Application Serial No. 09/802,398 (the "Application"). The Appellant filed a Notice of Appeal with the U.S. Patent and Trademark Office ("USPTO") on June 12, 2007. Appellant subsequently filed "Appellant's Brief in Support of Appeal from Final Rejection to the Board of Patent Appeals and Interferences" on

August 10, 2007 (the "Appeal Brief"), along with the statutory fee of \$500.00. In response, the Examiner prepared and mailed the "Examiner's Answer" on November 16, 2007. In response to the Examiner's Answer, Appellant timely files the present "Reply Brief in Support of Appeal from Final Rejection to the Board of Patent Appeals and Interferences" (the "Reply Brief").

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STATUS OF CLAIMS

Claims 1-9, 11, 13-18, and 24-29 have been rejected under 35 U.S.C. § 102(e) pursuant to a final Office Action dated December 12, 2006 (the "Office Action"). Claims 1-9, 11, 13-18, and 24-29 are presented for appeal. Claims 10, 12, and 19-23 have previously been cancelled.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether the Examiner erred in rejecting claims 1-9, 11, 13-18, and 24-29 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,953,707 to Huang et al. ("*Huang*").
2. Whether the Examiner erred in considering the teaching cited by the Examiner as sufficient prior art under 35 U.S.C. § 102(e).

ARGUMENT

In the “Response to Argument” section of the Examiner’s Answer, the Examiner raised a number of arguments, each of which will be addressed in turn. Appellant respectfully submits that although there are a number of secondary errors presented in the Examiner’s Answer, there are at least two primary errors that require correction so that the present Application may proceed, namely the fact that “quantity” does not equate to “quality,” and that the use of the term “methodology” by Appellant, as referenced within the specification the Application and claimed in the pending claims, has a specific use both not referenced in *Huang* and not as the Examiner now attempts to define that specific term. Appellant respectfully submits the following comments for clarification and in support of the allowability of the pending claims of the Application.

I. HUANG DOES NOT DISCLOSE, TEACH, SUGGEST, OR OTHERWISE REFERENCE A SYSTEM OR METHOD RELATED TO “QUALITY” IN ANY FASHION

In the Examiner’s Answer, the Examiner summarized Appellant’s argument as “Applicant argues that Huang merely focuses on supply chain management pertaining to quantity and not quality as taught by the present application,” respectfully disagreeing with the Appellant. Examiner’s Answer, page 8.

In the Appeal Brief, Appellant provided a thorough review and summary of *Huang* to identify what *Huang* discloses and what it does not. Generally speaking, *Huang* discloses a decision support system that allows decision makers to view a supply chain from their own perspective, obtain information, and evaluate decisions made related to the system for forecasting and planning purposes. *Huang*, col. 1, ll. 19-27. However, it is very clear that

Huang focuses on a system related to **quantity** (supply volume) and does not disclose, teach, suggest, or otherwise relate to a system regarding **quality**. In short, *Huang* is a **quantity** system, and Appellant's Application discloses a **quality** system, each system having its own distinct parameters and method of operation.

For clarification to the Examiner and the Board of Patent Appeals and Interferences ("BPAI"), in its Appeal Brief, Appellant provided the results of its own objective search of *Huang* and the present Application to **objectively demonstrate** the clear differences between the two. In the Appeal Brief, Appellant revealed that the word "quality" is used **once** within the one hundred and seventy-one (171) page *Huang* patent, specifically in reference to the quality of the collateral "forecasts" and "customer projections" (col. 19, l. 6 of *Huang*) and not pertaining to any aspect of the actual systems disclosed within or claimed by *Huang*. Appeal Brief, page 19. **Conversely**, the word "quality" is referenced well over one hundred (100) times within the present Application, and has specific reference within the definition of "methodology" as discussed herein (to "describe specific quality gates and the deliverables expected at those quality gates"). *Id.* In short, *Huang* deals with a system that ensures **quantity**, *i.e.* matches production with sales, and that Appellant's invention is patently different. Appellant's invention ensures quality standards are met and is not concerned with matching production quantities with sales. The distinction between *Huang* and the present Application could not be more clear.

In the Examiner's Answer, the Examiner alleged that *Huang* "does not only teach supply chain management pertaining to quantity but also quality as well," and further alleged that *Huang* "also ensures quality standards are met" as relating to the PSI Planning process disclosed therein. Examiner's Answer, page 8. Appellant respectfully disagrees with the Examiner for the

reason that none of the references within *Huang* made by the Examiner demonstrate any system relating to *quality*.

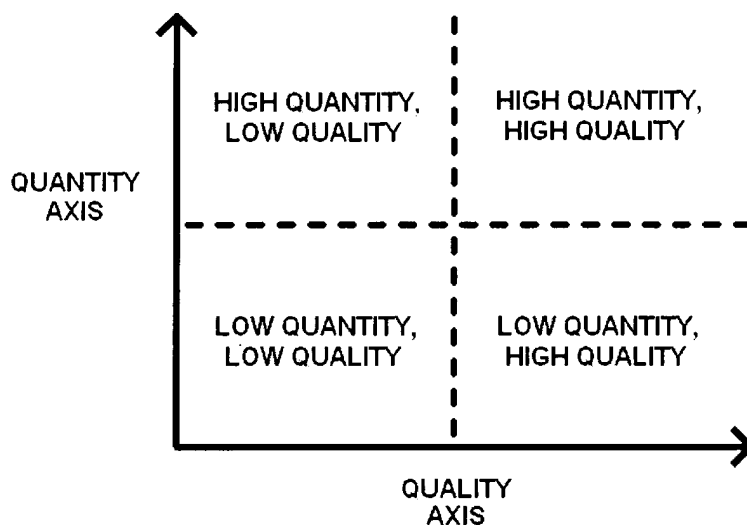
In the first reference, the Examiner stated that “Huang teaches that the data in each data space (i.e. *demand, supply and inventory data*) can be at any resolution (in terms of level of aggregation) along the three dimensions and can be expressed *as a quantity* or value [col. 7, lines 47-57]” (emphasis added). Examiner’s Answer, page 8. Appellant respectfully submits that as emphasized therein, that particular reference within *Huang* clearly discusses *quantity* data (“(i.e. demand, supply and inventory data)”) and even refers to the aggregation of those three terms as being expressed “as a quantity.” There is clearly no reference here in *Huang* to a *quality* system as disclosed and claimed by Appellant.

In the second reference, the Examiner stated that “Huang also ensures quality standards are met by determining the production (*supply*) plan to meet the production (*supply*) requirements generated by the PSI Planning process [see col. 13, lines 45-64; col. 16, lines 1-67]” (emphasis added). Examiner’s Answer, page 8. Similar to the Examiner’s first reference provided above, this reference within *Huang* discusses one of the three *quantity* aspects, namely “supply,” which has no bearing on a system related to *quality*.

In the third reference, the Examiner stated that “Huang also analyzes the impact of promotions on *sales*,” whereby “[t]he results of such an analysis are then used to help adjust *sales forecasts* to account for promotions” (emphasis added). Examiner’s Answer, pages 8 and 9. Furthermore, the Examiner then alleged that “[f]orecast performance can evaluate the quality of enterprise’s forecasts and the consumer projection [col. 19, lines 1-7].” Examiner’s Answer, page 9. First, Appellant respectfully submits that the aforementioned references to “sales” and

“sales forecasts” clearly relate to a *quantity* of sales and the anticipated amount of sales projected into the future, respectively. These references to “sales” and “sales forecasts” have no bearing on or relation to a *quality* system as referenced in the present Application. Second, the Examiner’s reference to the “quality of enterprise’s forecasts” within *Huang* is not only the sole reference to the word “quality” within *Huang*, but also, as Appellant’s stated above and within the Appeal Brief, this reference to “quality” does not pertain to any system of *Huang* and is, at best, a completely collateral reference to any system or method claimed within *Huang*.

Quantity and quality are clearly separate concepts. For example, one can consider a matrix of quantity on one axis and quality on the other axis. On each axis, a scale from “low” to “high” can be provided, for example, to show a data point on one axis being that of a relatively low or high quantity, or a data point on the other axis being that of a relatively low or high quality. Such a matrix would provide four (4) completely separate scenarios:



As can be shown by this simple matrix, an item (for example, a product) can have at least four separate attributes, keeping “moderate” quantities and “moderate” quality aside.

Specifically, one can have several products of poor quality (the “HIGH QUANTITY, LOW QUALITY” scenario), few products of poor quality (the “LOW QUANTITY, LOW QUALITY” scenario), several products of excellent quality (the “HIGH QUANTITY, HIGH QUALITY” scenario), and few products of excellent quality (the “LOW QUALITY, HIGH QUALITY” scenario). By way of this simplified example, it is clear that the concept of *quantity*, as referenced within *Huang*, and the concept of *quality*, as disclosed by the systems and methods of the present Application, are separate concepts that have their own separate attributes. Accordingly, and as shown herein, the Examiner’s references to *Huang* as allegedly disclosing a “quality” system do not properly reflect the disclosures provided within *Huang*.

II. HUANG DOES NOT DISCLOSE, TEACH, OR SUGGEST A “METHODOLOGY” AS CLAIMED IN APPELLANT’S CLAIMS 1, 13, AND 24

In the Examiner’s Answer, the Examiner respectfully disagreed with the Appellant’s argument that *Huang* does not disclose, teach, or suggest a “methodology” as claimed in Appellant’s claims 1, 13, and 24. In support of the Examiner’s conclusion, the Examiner relied on a definition provided by Wikipedia and ignored the Appellant’s clear and specific definition of “methodology” as provided within the specification of the Application and as referenced numerous times during prosecution of the Application.

First, and instead of considering the Appellant’s specific definition of “methodology” as referenced within the Application, the Examiner searched for and obtained an independent definition for the word “methodology” from an external source. The Examiner’s source of choice is Wikipedia (available at <http://www.wikipedia.org>), which is specifically referenced as being “the encyclopedia that anyone can edit” (see http://en.wikipedia.org/wiki/Main_Page).

Appellant respectfully submits that the use of a Wikipedia definition instead of Appellant's own definition for "methodology" as provided within the Application is improper. First, and on August 15, 2006, the USPTO told its Examiners that they could not rely on Wikipedia as an accepted source of information. Specifically, John Doll, the Commissioner for Patents at the USPTO, stated that "The problem with Wikipedia is that it's constantly changing." See The Wall Street Journal Law Blog, August 25, 2006, available at <http://blogs.wsj.com/law/2006/08/25/>. As such, a Wikipedia definition should clearly not be relied upon by any USPTO Examiner given this guidance from the Commissioner for Patents.

Second, and as referenced by Appellant's in the Appeal Brief and during prosecution of the pending Application, a patent applicant may be his or her own lexicographer. Appellant respectfully submits that an applicant is allowed to act as its own lexicographer and use terms in the claims that they define in the specification. As stated in MPEP §608.01(o), "a term used in the claims may be given a special meaning in the description." Accordingly, the clear definition of "methodology" provided by Appellant within the specification of the Application as referenced herein is the appropriate definition that should be examined during prosecution.

The Examiner then relied upon the improper Wikipedia definition of "methodology" to support the allegations that the PSI Planning process of *Huang* teaches a methodology as disclosed and claimed by Appellant. PSI Planning is defined in *Huang* to be "a process to determine a set of feasible sales, production and inventory requirements for medium to long-term capacity and resource planning for the logistics operations." *Huang*, col. 13, ll. 9-12.

The PSI Planning process of *Huang* has no relationship to a "methodology" as disclosed and defined within the present Application. The present Application generally describes a

"methodology" as "govern[ing] the project to ensure that the correct process(es) is (are) followed to establish the manufacturing capability to reliably produce parts of a given quality to a given set of specifications." Application, paragraph 0241. The Application further describes "methodologies" as being "templates created by the quality director and used on projects." Id. The "methodology template" is explained as "describ[ing] the phases or milestones (quality gates) required of a project and the document deliverables that are expected at those quality gates." Application, paragraph 0151. In addition, "by applying a methodology to a project, the part is designed, developed, tested, manufactured, etc., in compliance with the methodology(ies) applied to the project." Id. Appellant respectfully submits that these descriptions demonstrate, at a minimum, that a "methodology" (a) governs a project to *ensure* processes are followed to produce parts of a particular quality to a given set of specifications, by (b) the use of methodology templates on projects that (c) describe specific quality gates and the deliverables expected at those quality gates.

Appellant respectfully submits that the PSI Planning process does not have any relationship to a "methodology" as disclosed and defined within the present Application. As defined within the Application, a "methodology" (as shown above) includes several features not disclosed, taught, or suggested in *Huang*. The PSI Plans as discussed within *Huang* (see col. 13, ll. 9-43, 49, and 58-59) merely discuss "sales, production, and inventory requirements" (see col. 13, l. 10) and have no relationship whatsoever to a methodology to govern a project to "ensure" processes are followed to produce parts of a particular *quality* to a given set of specifications in accordance with a "methodology" of the present Application.

III. THE EXAMINER'S APPLICATION OF CASE PRECEDENT REGARDING BREADTH OF CLAIM INTERPRETATION IS INCORRECT

In the Examiner's Answer, the Examiner cited *In re Prater*, 162 USPQ 541, 550-51 (CCPA 1969), as supporting the contention that "Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the Examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified." Examiner's Answer, pages 9 and 10. Furthermore, the Examiner cited *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993) to support the contention that "[a]lthough the claims are interpreted in light of the specification, limitations from the specification are not read into the claims." Examiner's Answer, page 10. While Appellant does not disagree with these statements of the law, Appellant respectfully submits that the Examiner's *application* of these two precedential opinions to the present Application is incorrect.

First, the Examiner alleged that "the features upon which applicant relies (i.e., a different type of object is used for each different type of thing being represented) are not recited in the rejected claims." Examiner's Answer, page 10. Appellant respectfully submits that "a different type of object is used for each different type of thing being represented" is phrases so generally as to be impossible for Appellant to interpret the specific portion(s) of the Appeal Brief the Examiner refers to. "The examiner bears the initial burden ... of presenting a *prima facie* case of unpatentability." *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). As the Examiner has failed to show in any way how or why "a different type of object is used for each different type of thing being represented" is related to any claim or claim element currently under Appeal, the Examiner has not presented a *prima facie* case of unpatentability by raising this argument.

Second, the Examiner alleged that “the features upon which applicant relies (i.e., templates created by the quality director or quality gates) are not recited in the rejected claims.” Examiner’s Answer, page 10. Appellant respectfully submits that the Examiner’s reference to “quality gates” pertains to the definition of “methodology” as defined within the specification of the Application. As previously referenced, a “methodology”, at a minimum (a) governs a project to ensure processes are followed to produce parts of a particular quality to a given set of specifications, by (b) the use of methodology *templates* on projects that (c) describe specific *quality gates* and the deliverables expected at those quality gates.

In the Examiner’s Answer, the Examiner essentially argues that Appellant must include a definition of a term used within a claim in the claim itself. As referenced within the definition of “methodology” defined herein, the terms “templates” and “quality gates” are shown as they are specifically referenced within the specification as pertaining to a “methodology.” As previously noted in Section II above, an applicant is allowed to act as its own lexicographer and use terms in the claims that they define in the specification, noting that as stated in MPEP §608.01(o), “a term used in the claims may be given a special meaning in the description.” Appellant respectfully submits that it is clearly permitted to define its own terminology as referenced within the specification of the Application, and Appellant further submits that there is no requirement, in the MPEP or otherwise, for an applicant for patent to define every term used within a claim in the claim itself. Such a requirement would be never-ending and impossible to achieve as the use of a word in a definition would necessitate its own definition using other words, a process that would continue *ad infinitum*. As such, and as has been demonstrated by Appellant, the case

precedent relied upon by the Examiner for the present rejection has no bearing to the review and analysis of the claims of the present Application.

IV. *HUANG* DOES NOT TEACH, DISCLOSE, OR SUGGEST A “METHODOLOGY APPLICABLE TO A PROJECT” AS CLAIMED IN CLAIMS 1, 13, AND 24 OF THE APPLICATION

In the Examiner’s Answer, the Examiner respectfully disagreed with the Appellant’s argument that *Huang* does not disclose, teach, or suggest a “methodology applicable to a project” as claimed in Appellant’s claims 1, 13, and 24. In support of the Examiner’s conclusion, the Examiner relied upon Fig. 53 of *Huang* and its related description within the specification of *Huang*.

Fig. 53 of *Huang* shows a “Make Product Set dialog box” which “gives the user an alternate way to make a domain which only consists of products and product groups.” *Huang*, col. 103, ll. 36-38. The disclosure of Fig. 53 continues with the description provided by the Examiner within the Examiner’s Answer, namely col. 103, line 38 to col. 104, line 6 of *Huang*. Although Appellant does not disagree with the Examiner’s description of the “Make Product Set dialog box” of *Huang* (Fig. 53), Appellant respectfully submits that this disclosure within *Huang* does not disclose, teach, or suggest “a methodology applicable to the project” as claimed within claims 1, 13, and 24.

Appellant respectfully submits that the Make Product Set dialog box (Fig. 53 of *Huang*) is a mechanism for which a user of the system disclosed in *Huang* may select one or more criteria (product category, a first feature, a second feature, etc.) to specify a particular type of product. However, such a mechanism does not read upon the disclosure of the present Application, and specifically regarding the present argument, this mechanism of *Huang* does not

disclose, teach, or suggest "a methodology applicable to the project" as claimed within claims 1, 13, and 24.

As described above, a "methodology," according to the disclosures in the Application, (a) governs a project to *ensure* processes are followed to produce parts of a particular quality to a given set of specifications, by (b) the use of methodology templates on projects that (c) describe specific quality gates and the deliverables expected at those quality gates. The specification of a particular type of product as shown in Fig. 53 of *Huang* does not describe *any* quality gates and does not describe *any* deliverables expected at those quality gates. Neither Fig. 53 of *Huang* nor the description of the figure within the specification of *Huang* of these sections describe any specific measures of quality. Accordingly, there is no teaching shown in Fig. 53 of *Huang* to govern a project to *ensure* processes are followed to produce parts of a particular quality to a given set of specifications.

In summary, Fig. 53 of *Huang* simply does not rise to the level of a "methodology" or a "methodology template" of the claimed invention. Therefore, Appellant respectfully submits that claims 1, 13, and 24 are patentable, and the rejection of claims 1, 13, and 24 under 35 U.S.C. § 102(e) as being anticipated by *Huang* should be withdrawn.

V. HUANG DOES NOT TEACH, DISCLOSE, OR SUGGEST THE FEATURE OF COMPARING DATA ENTERED BY A USER TO THE AT LEAST ONE METHODOLOGY TO ENSURE THAT CORRECT PROCESSES ARE PROCESSED AS CLAIMED IN CLAIMS 1, 13, AND 24 OF THE APPLICATION

In the Examiner's Answer, the Examiner respectfully disagreed with the Appellant's argument that *Huang* does not disclose, teach, or suggest a "the feature of comparing data entered by a user to the at least one methodology to ensure that correct processes are processed"

as claimed in Appellant's claims 1, 13, and 24. This statement refers to the claim element contained within claims 1, 13, and 24 of the Application regarding the step "to compare data entered by a user to the at least one methodology to ensure that correct process(es) is (are) followed to establish a manufacturing capability to reliably produce parts of a given quality to a given set of specifications."

In support of the Examiner's conclusion, the Examiner relied on two specific references within *Huang*. First, the Examiner alleged that *Huang* "teaches that when the actual purchase orders arrive, the enterprise attempts to fulfill the requirements to their customers' satisfaction," and that "[s]ynthesize information from different sources in order to manage the demand requirements effectively by comparing point-of-sales (POS) data with shipment history and customer forecasts" (*Huang*, col. 12, line 61 to col. 13, line 3).

Appellant respectfully submits that this reference within *Huang* does not disclose the step "to compare data entered by a user to the at least one methodology to ensure that correct process(es) is (are) followed to establish a manufacturing capability to reliably produce parts of a given quality to a given set of specifications" as claimed in claims 1, 13, and 24 of the present Application. This particular section within *Huang*, as identified by the Examiner, specifically relates to "demand requirements" by comparing POS data with "shipment history and customer forecasts." *Huang*, col. 12, line 65 to col. 13, line 1). As previously referenced above, *demand* is a term related specifically to a *quantity* of something, typically referenced along with *supply* information. This particular reference compares such *quantity* data to "shipment history," which merely refers to prior shipments, and "customer forecasts," which again relates to a *quantity* of an item.

As discussed above, *Huang* is generally concerned with **quantity** information and not **quality** information. The aforementioned reference within *Huang* mirror this fact, namely by relating to “demand requirements” and “customer forecasts” and not pertaining in any way to **quality** information. Conversely, the specific language within claims 1, 13, and 24 referred to by the Examiner pertains specifically to the step to “compare data entered by a user *to the at least one methodology* to *ensure* that correct process(es) is (are) followed to establish a manufacturing capability to *reliably produce parts of a given quality* to a given set of specifications.” (emphasis added). The “demand requirements” and “customer forecasts” forecasts referenced by the Examiner have no relevance to the comparison of data to at least one methodology to ensure that quality parts are produced as claimed in claims 1, 13, and 24 of the Application.

The Examiner then references to a disclosure within *Huang* regarding the VMR program in support of the argument that the particular disclosure teaches the step “to compare data entered by a user to the at least one methodology to ensure that correct process(es) is (are) followed to establish a manufacturing capability to reliably produce parts of a given quality to a given set of specifications” as claimed in claims 1, 13, and 24 of the Application. As noted by the Examiner, the “scenarios” generated relate to values of “delivery frequency,” a “target average inventory level,” and a “target customer service level” which are monitored by a VMR Program. *Huang*, col. 34, lines 36-48. As is clearly discussed within this section of *Huang*, the VMR Program addresses values all related to **quantity**. For example, the VMR Program is concerned about “delivery frequency,” which clearly relates to the **number** of deliveries over a particular time frame. Similarly, the “target average inventory level” clearly relates to an

amount of inventory of a particular item or item. These *quantity* figures (namely “number” and “amount”) have no bearing whatsoever on *quality*, and as such, Appellant respectfully submits that such references therefore cannot teach, disclose, or suggest a system or method with the step to “to compare data entered by a user to the at least one methodology to ensure that correct process(es) is (are) followed to establish a manufacturing capability to reliably produce parts of a given quality to a given set of specifications” as claimed in Appellant’s claims 1, 13, and 24.

VI. *HUANG* DOES NOT TEACH, DISCLOSE, OR SUGGEST A “METHODOLOGY BEING INDICATIVE OF AT LEAST ONE REQUIREMENT” AS CLAIMED IN CLAIM 11 OF THE APPLICATION

In the Examiner’s Answer, the Examiner respectfully disagreed with the Appellant’s argument that *Huang* does not disclose, teach, or suggest a “methodology being indicative of at least one requirement” as claimed in Appellant’s claims 11.

Appellant respectfully submits that this particular argument by the Examiner is presented to Appellant in error, as Appellant’s claim 11 does not include the limitation of a “methodology being indicative of at least one requirement.” That particular limitation appears in claims 1, 13, and 24 of the Application.

However, if the Examiner intended to apply the argument advanced in the Examiner’s Answer to claims 1, 13, and 24 of the Application, the support referenced by the Examiner within *Huang* does not support the argument advanced. In support of the Examiner’s conclusion, the Examiner relied upon Fig. 53 of *Huang*. As noted in Section IV above, the mechanism disclosed in Fig. 53 of *Huang* does not read upon the disclosure of the present Application as it does not teach, disclose, or suggest a “methodology” generally as disclosed by Appellant within the specification of the Application. Therefore, and specifically regarding the present argument,

as Fig. 53 of *Huang* does not relate to a “methodology” as referenced by Appellant, this mechanism also does not disclose, teach, or suggest “a methodology being indicative of at least one requirement” as claimed within claims 1, 13, and 24.

VII. *HUANG* DOES NOT TEACH, DISCLOSE, OR SUGGEST A “METHODOLOGY INCLUDING A DOCUMENT” AND “DOCUMENT INDICATOR” AS CLAIMED IN CLAIM 11 OF THE APPLICATION

In the Examiner’s Answer, the Examiner respectfully disagreed with the Appellant’s argument that *Huang* does not disclose, teach, or suggest a “methodology including a document” and “document indicator” as claimed in Appellant’s claim 11. Appellant respectfully submits that this statement references two specific arguments presented by Appellant in the Appeal Brief, namely that (A) *Huang* does not disclose, teach, or suggest the element of “one of the at least one of the requirements comprises at least one methodology, the at least one methodology including a document” as claimed in claim 11 (presented in Section III(A) of the Appeal Brief), and that (B) *Huang* does not disclose, teach, or suggest the element of “the at least one measurement criterion comprising a document complete indicator” as claimed in claim 11 (presented in Section III(B) of the Appeal Brief).

In support of the Examiner’s conclusion, the Examiner relied on several references within *Huang*, including Figs. 31, 32, and 53, table 14, col. 7, lines 47-67, col. 8, lines 56-65, and Appendix C. Figs. 31 and 32 of *Huang* are graphical depictions of one or more sine waves, and as described within the specification of *Huang*, Fig. 31 is an “impact-curve” constructed “[b]y calculating the ratios of the actual *sales volumes* during the promotion periods and the calculated “base line” values” (emphasis added), and Fig. 32 shows the “impact curves pertaining to different promotion periods of a given type [which] can be aggregated into a single curve using

standard curve fitting techniques.” *Huang*, Figs. 31 and 32 and col. 55, lines 57-63. Fig. 53 has been previously discussed herein and is clearly not relevant to any analysis of the claims of the present Application. Table 14 (found at col. 84, lines 26-49 of *Huang*), provides “[s]uggested functions to approximate normal distribution” providing information on various symmetric and asymmetric segments presented therein. Col. 7, lines 47-67 of *Huang* discusses details pertaining to data spaces, and starts with the sentence “A data space is a functional domain to characterize basic data elements associated with the ***supply chain management: demand, supply and inventory data***” (emphasis added). Col. 8, lines 56-65 of *Huang* introduces the three tables that follow (Tables 1-3), with Table 1 being “A single consolidated table with redundancy (not in normal form)” including Customer ID and Quantity fields, Table 2 being “Header table that provides the series information and the various identifiers” not showing a Quantity field, and Table 3 being “Data table that contains references to the header table and the time series data” again showing Quantity information. Neither Tables 1, 2, or 3 disclose anything related to ***quality***. Appendix C is “Interim Design Documentation for the System Integrator of the ***Supply Frame Chain Manager***” (emphasis added), providing a series of software code specification information relating thereto.

As is demonstrated by the majority of these references, *Huang* focuses solely on ***quantity*** information and not ***quality*** information. The two claim elements referenced herein, namely “one of the at least one of the requirements comprises at least one methodology, the at least one methodology including a document” and “the at least one measurement criterion comprising a document complete indicator” as claimed in claim 11 either relate to a “methodology” or a specific measurement criterion comprising a document complete indicator.

Regarding the element of “one of the at least one of the requirements comprises at least one methodology, the at least one methodology including a document” as claimed in claim 11, Appellant respectfully submits that none of the references cited by the Examiner disclose the aspects of this particular claim element. As previously shown, a “methodology,” according to the Application, (a) governs a project to ensure processes are followed to produce parts of a particular quality to a given set of specifications, by (b) the use of methodology templates on projects that (c) describe specific quality gates and the deliverables expected at those quality gates. The references within *Huang* as cited by the Examiner do not disclose, teach, or suggest the element “wherein one of the at least one requirements comprises at least one methodology, the at least one methodology including a document” as claimed in claim 11 of the Application. No reference to a “methodology” as claimed and defined within the Application is made in these sections of *Huang*.

Regarding the element of “the at least one measurement criterion comprising a document complete indicator” as claimed in claim 11, Appellant respectfully submits that none of the references cited by the Examiner disclose this particular claim element. The “indicator” referenced within “document complete indicator” is defined within the Application as being “used to compare the goals against the actual values.” *Application*, paragraph 0365. In claim 11, a “document complete indicator” is claimed in the context of “at least one measurement criterion indicative that the **requirement** has been satisfied” (emphasis added), and “wherein one of the at least one requirements comprises a **methodology**” (emphasis added). As discussed herein, *Huang* does not disclose, teach, or suggest a “methodology” as described and claimed within the Application, and because claim 11 claims that “at least one [of the] requirements comprises a

methodology,” the claimed element that “at least one measurement criterion comprising a document complete indicator” can not possibly be disclosed, taught, or suggested by *Huang*.

VIII. *HUANG* DOES NOT TEACH, DISCLOSE, OR SUGGEST AN “EVALUATION SYSTEM” AS CLAIMED IN CLAIM 24 AND THE FEATURE OF COMPARING DATA ENTERED BY A USER TO THE AT LEAST ONE METHODOLOGY TO ENSURE THAT CORRECT PROCESSES ARE PROCESSED AS CLAIMED IN CLAIM 11 OF THE APPLICATION

In the Examiner’s Answer, the Examiner respectfully disagreed with the Appellant’s argument that *Huang* does not teach an “evaluation system” as specified in claim 24 and comparing data entered by a user to the at least one methodology to ensure that correct processes are processed as claimed in claim 11. Appellant respectfully submits that this statement references two specific arguments presented by Appellant in the Appeal Brief, namely that (A) *Huang* does not disclose, teach, or suggest the element of “an evaluation [sub]system operable by the processing means for evaluating the project in view of the project *methodology*, and for evaluating the sub-project in view of the sub-project *methodology*” (emphasis added) as claimed in claim 24 (presented in Section II(B)(3) of the Appeal Brief), and that (B) *Huang* does not disclose, teach, or suggest the elements of “(d) evaluating the entered data for relevance to the *at least one requirements* applicable to the project, and if not relevant returning to step (c)” (emphasis added) and “(e) comparing the entered data to the at least one measurement criterion of the relevant *at least one requirement*, and if the entered data does not satisfy the at least one measurement criterion, returning to step (c)” (emphasis added) as claimed in claim 11 (presented in Section III(D) of the Appeal Brief). Appellant respectfully disagrees with the Examiner.

In support of the Examiner's conclusion, the Examiner relied on four specific sections of *Huang*, namely (a) col. 97, line 2 to col. 98, line 3, (b) Figs. 41-42, (c) col. 12, line 61 to col. 13, line 3, and (d) col. 34, lines 36-59. Appellant will address each of these references in turn.

First, col. 97, line 2 to col. 98, line 3 of *Huang* relates to "User Interface 18" as disclosed within *Huang*. Appellant respectfully submits that it appears that the Examiner cited this particular section within *Huang* because the word "evaluation" appears once between col. 97, line 20 to col. 98, line 3. "User Interface 18," as described therein, states that "[t]he interaction between the users and the DSS 10 during the decision-making process can be characterized as follows: The communication of process information and management input; Formulation of decision problems; Generation of problem solutions *or evaluation of decision alternatives*; and Coordination of the above." *Huang*, col. 97, lines 2-7.

Appellant respectfully submits that it has previously addressed this particular section of *Huang* in response to the Examiner's prior rejection. As stated within the Examiner's Answer, Figs. 41 and 42 were referenced along with col. 97, line 2 to col. 98, line 3 of *Huang*, as was noted by the Examiner in the Examiner's most recent Office Action regarding this particular application. As noted within the Section II(B)(3) of the Appeal Brief, the evaluation of decision alternatives in *Huang* do not disclose, teach, or suggest an "evaluation subsystem" as claimed in claim 24, and the decision alternatives do not "describe specific quality gates and the deliverables expected at those quality gates" as stated above in the Appellant's explanation of a "methodology" as supported by the Application (claim 24, element (c)).

Fig. 41 of *Huang* discloses a "supply chain simulation model [that] primarily mimics the material and information flow controlled by the frame decisions along the supply chain."

Huang, col. 95, lines 11-13. The "inputs" required are "the decisions that will effect the total performance of the supply chain" (*Huang*, col. 95, lines 29-30), and the "outputs" are "based on the performance assessment plan of the DSS" and include items such as "On-time delivery rate, Component inventory levels, Order cycle time," and the like (*i.e.*, the various factors and materials necessary to produce finished products to meet sales). *Huang*, col. 95, lines 41-45. Fig. 42 of *Huang* discloses a partial flowchart, including the review of data and information, posing a problem, the examination of input by DSS, a decision to be made regarding consistency, DSS output, a question regarding the satisfaction of results, and if yes, the end of the session.

However, neither Fig. 41 nor Fig. 42 of *Huang* disclose, teach, or suggest "an evaluation subsystem operable by the processing means for evaluating the project in view of the project methodology, and for evaluating the sub-project in view of the sub-project methodology" as claimed in claim 24. *Huang* discloses "users reviewing 402 the initial conditions and default values related to a decision problem retrieved from the DSS Database" and the communications of the users regarding their "preferences through proper selection of options, specification of parameters and values, and choice of analysis routines" that are then examined by the DSS Database." *Huang*, col. 97, lines 31-39. This process (described in *Huang* regarding Fig. 42), at best, is a user review of one level of data (top portion of Fig. 42), and as such, cannot be "an evaluation subsystem...for evaluating *the project* in view of the project methodology, and for evaluating *the sub-project* in view of the subproject methodology" (emphasis added) as claimed in claim 24, which clearly demonstrates evaluations of at least two (2) specific levels (project level and sub-project level). Accordingly, Figs. 41 and 42 of *Huang* fail to teach, disclose, or suggest such a multi-level evaluation subsystem as claimed in claim 24.

Moreover, the evaluation of decision alternatives of *Huang* does not disclose, teach, or suggest *any* type of methodology as defined by Appellant within the specification of the Application to *ensure* processes are followed to produce parts of a particular quality to a given set of specifications by the use of methodology templates on projects. Accordingly, none of those sections would be considered as a "methodology" of the claimed invention. In addition, the evaluation of decision alternatives of *Huang* would not be considered as a project methodology template in accordance with the Application (because no methodology information is included in *Huang*), and accordingly, there is no teaching in the evaluation of decision alternatives of *Huang* to govern a project to *ensure* processes are followed to produce parts of a particular quality to a given set of specifications.

Regarding col. 12, line 61 to col. 13, line 3 of *Huang*, Appellant respectfully submits that this particular reference also does not disclose the elements referenced by the Examiner herein. In the Examiner's Answer, the Examiner alleged that "Huang teaches that when the actual purchase orders arrive, the enterprise attempts to fulfill the requirements to their customers' satisfaction," and that "synthesize information from different sources in order to manage the demand requirements effectively by comparing point-of-sales (POS) data with shipment history and forecasts [col. 12, lines 61 to col. 13, lines 3]." Examiner's Answer, page 14.

Appellant incorporates as if fully set forth herein its argument and explanation provided in Section V above as this particular claim element ("to compare data entered by a user to the at least one methodology to ensure that correct process(es) is (are) followed to establish a manufacturing capability to reliably produce parts of a given quality to a given set of

specifications") included within claim 11 is the same claim element included within claims 1, 13, and 24. *Huang* simply does not disclose, teach, or suggest this claim element.

In addition, Appellant respectfully submits that neither col. 12, line 61 to col. 13, line 3 of *Huang*, nor any other reference within *Huang*, discloses the "at least one requirements applicable to the project" limitation of claim 11, let alone any steps of evaluating or comparing such "at least one requirement." Rather, the supply management and demand management processes of *Huang* are processes that gather and analyze certain information in order to provide advice for decision makers to use in determining whether or not to produce a product or the amount of product to produce. *Huang*, cols. 12-14. The system of *Huang* also functions to determine the feasibility and the economic viability of changes in certain aspects of the supply chain (*i.e.*, production ability, demand for the product, etc.). *Huang*, col. 13.

In contrast, the "requirements" of Appellant's claim 11 pertain to the requirements that make up the methodologies of the system. In the system of claim 11, in order for one methodology to be completed, the requirements of the methodology must be met. Unlike the system disclosed in *Huang*, the requirements of the system of claim 11 do not involve analysis of information and/or forecasting for present or future demand. Rather, the claimed requirements of claim 11 include, for example, complying with industry standards and any special conditions specified by the customer that is to be supplied by the end product. Moreover, the claimed requirements of claim 11 must be met to comply with the broader defined methodology. For the above foregoing reasons, Appellant submits that *Huang* does not disclose "(a) creating and storing ... ***at least one requirement*** applicable to at least one of the at least one projects of the supply chain ... (d) evaluating the entered data for relevance to the ***at least one requirements***

applicable to the project ... ; and (e) comparing the entered data to the at least one measurement criterion of the relevant *at least one requirement*," (emphasis added) as claimed in Appellant's claim 11.

In summary, the components of the evaluation of decision alternatives of *Huang* simply do not rise to the level of a "methodology" or a "methodology template" of the claimed invention, or of "at least one requirement" of the project. Thus, *Huang* cannot be construed to evaluate or compare such data. Accordingly, these disclosures of *Huang* also do not disclose, teach, or suggest the "at least one requirement" as claimed in claim 11 of the Application.

Regarding the disclosure of col. 34, lines 36-59 of *Huang*, Appellant incorporates as if fully set forth herein its argument and explanation provided in Section V above as this particular reference within *Huang* (namely the VMR program disclosed within col. 34 of *Huang* and referenced by the Examiner). In Section V above, the Examiner cited the VMR program of *Huang* in reference to the step "to compare data entered by a user to the at least one methodology to ensure that correct process(es) is (are) followed to establish a manufacturing capability to reliably produce parts of a given quality to a given set of specifications" as claimed in claims 1, 13, and 24. Appellant respectfully submits that the analysis presented in Section V above similarly applies to the steps of "(d) evaluating the entered data for relevance to the at least one requirements applicable to the project, and if not relevant returning to step (c)" and "(e) comparing the entered data to the at least one measurement criterion of the relevant at least one requirement, and if the entered data does not satisfy the at least one measurement criterion, returning to step (c)" as claimed in claim 11. The VMR program disclosed within *Huang* simply has no relevance to the analysis of this particular claim element.

IX. HUANG DOES NOT SUFFICE AS PRIOR ART UNDER 35 U.S.C. § 102(E).

Appellant incorporates as if fully set forth herein its argument and explanation provided in Section VI of the Appeal Brief to support its position that *Huang* does not suffice as a 35 U.S.C. § 102(e) prior art bar to patentability of the pending claims of the Application. *Huang* does not disclose, teach, or suggest "each and every limitation found in the claims" of the Application as required by applicable law. See *Rockwell Intern. Corp. v. U.S.*, 147 F.3d 1358, 1363 (Fed. Cir. 1998), and *Electro Med Sys. S.A. v. Cooper Life Sciences*, 34 F.3d 1048, 1052 (Fed. Cir. 1994).

X. INCORPORATION OF PRIOR ARGUMENTS

Appellant respectfully reiterates its disagreement with the Examiner's position on the claims of the present Application and maintains the arguments originally made of record in the Appellant's Appeal Brief.

XI. CONCLUSION

In summary, and as described above, Appellant believes that the Examiner's rejections of claims 1-9, 11, 13-18, and 24-29 were erroneous, and reversal of the Examiner's decision and allowance of those claims is respectfully requested. In the event Appellant has inadvertently overlooked the need for any payment of a fee which may be required for the submission of the Reply Brief, Appellant conditionally petitions therefor, and authorizes any fee deficiency to be charged or any overpayment to be credited to deposit account 09-0007. When doing so, please reference docket number P00509-US-01 (04690.0007). In the event the Examiner has any questions about the present Reply Brief, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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